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yet in *Glavin v. R. I. Hospital,* 12 R. I., 411, the charity was held liable on the ground of public policy, even though the plaintiff was a beneficiary of the trust fund.

CRIMINAL LAW—EVIDENCE—WITNESS WITHOUT JURISDICTION.—STATE V. CONKLIN, 133 N. W., 119 (IA.).—*Held,* that where a witness who had testified at a previous trial was beyond the jurisdiction, and his testimony had not been taken down in short hand, it was permissible for one who heard to give the substance thereof against the accused. Weaver and Evans, J. J., *dissenting.*

That the witness is not a resident of the state, or is absent therefrom at the time of the trial has been held sufficient ground for the admission of his testimony as taken at the preliminary examination. *Perry v. State,* 87 Ala., 30; *Cowell v. State,* 16 Texas App., 58. Some courts refuse to recognize this as a sufficient reason. *Finn v. Com.,* 5 Rand (Va.), 701, unless his absence was procured by the opposite party. *State v. Houser,* 26 Mo., 431. Yet even when the only means of proving such testimony is by the oral testimony of those who heard it at the examination, and they are able to repeat it in substance, such a method, according to the majority opinion, is permissible. *State v. Harmon,* 70 Kan., 476; *Baker v. Sands,* 140 S. W. (Texas), 520. But in *United States v. Wood,* Fed. Cas. No. 16, 756, it was held that the witness must repeat the testimony of even a deceased witness exactly as it was given, and not merely in substance. And in *Wade v. State,* 7 Baxt. (Tenn.), 80, the witness was required to repeat it in such detail as the Court should demand.

EVIDENCE—DOCUMENTARY—TIME BOOKS.—BOCKELCAMP V. LACKAWANNA & W. V. R. CO., 81 ATL., 93 (PA.).—*Held,* a time book, not a book of original entries, of an employer is inadmissible to show the hours that an employee worked on a particular day where the book was made from time slips which were not produced, and where the witnesses who made the entries were not produced.

The established rule is that a book which is not a book of original entries is not admissible. *Rumsey v. Tel. Co.,* 49 N. J. L., 322; *Woolsey v. Boher,* 41 Minn., 235; *Bently v. Ward,* 116 Mass., 333; *Way v. Cross,* 95 Ia., 258. While a book of original entries fair and regular on its face will, provided it is properly authenticated, generally be admissible in evidence. *Folsom v. Grant,* 136 Mass., 493; *Anchor Milling Co. v. Walsh,* 108 Mo., 277; *Lunsford v. Butler,* 102 Ala., 403. Whether a book is one of original entries is something difficult to decide; the fact, however, that temporary memoranda were originally made, and the entries then made from them in the books, does not make them inadmissible; they are still books of original entries. *Faxon v. Hollis,* 13 Mass., 427; *McGoldrick v. Teaphagen,* 88 N. Y., 334; *Hall v. Glidden,* 39 Me., 445. For their admission in evidence proper authentification by the party making the entries is essential; or in case of his death or other disability, by proof of his handwriting. *Miller v. Shay,* 145 Mass., 162; *Stroud v. Tilton,* 4 App. Dec. (N. Y.), 324. It must be shown that the entries were made in the regular

course of business. *In re Fulton,* 178 Pa. St., 78; *Baldridge v. Penland,* 68 Tex., 441. Also the entries must have been made contemporaneously with the transactions recorded. *Wells v. Hobson,* 91 Mo. App., 379. There is no fixed rule as to what is "contemporaneous;" entries may be transcribed within a reasonable time. *Redlick v. Banerle,* 98 Ill., 134. Where these entries have been transcribed by one clerk from temporary memoranda made by another, some courts hold that, if the original observer cannot testify the book will be excluded. *Kent v. Garvin,* 1 Gray (Mass.), 148. Others will admit this evidence upon proof that the original observer is unavailable. *Am. Surety Co. v. Panly,* 38 W. S. App., 254. A copy of the original book will not ordinarily be received in evidence. *Skipworth v. Deyell,* 83 Hun. (N. Y.), 307; *Peck v. Parchen,* 52 Ia., 46.

EVIDENCE—PHOTOGRAPHS—ADMISSIBILITY—CITY OF LOUISVILLE v. ARROWSMITH, 140 S. W., 1022, (KY.).—*Held,* that in an action against a city for injury to a traveler caused by a defect in a street, photographs taken some time after the accident were admissible in evidence to show the condition of the street where witness other than the photographer testified that they accurately described the condition of the street, and there was no contention that the condition of the street had changed since the accident.

As a general rule, photographs are competent as evidence when their correctness has been shown. *First National Bank v. Wisdom's Ex'rs.,* 111 Ky., 135; *Alberti v. R. R. Co.,* 118 N. Y., 77; *Cooper v. Ry. Co.,* 54 Minn., 379. They are admissible to show identity. *United States v. A Lot of Jewelry,* 59 Fed., 684. Or to show the condition of a person. *Cooper v. Ry. C.,* 54 Minn., 379; *Ry. Co. v. Allen,* 36 Neb., 361. Or to show the condition of premises. *Dyson v. R. R. Co.,* 57 Conn., 9; *German School v. Dubuque,* 64 Ia., 736. But they must be authenticated extrinsically. *Cunningham v. R. R. Co.,* 72 Conn., 244; *Leidlin v. Meyer,* 95 Mich., 586; *Beardslee v. Columbia Township,* 188 Pa. St., 496. This need not, however, be done by the photographer himself, but may be done by any eyewitness. *Mow v. People,* 31 Colo., 351; *Hall v. Ins. Co.,* 76 Minn., 401. They are not, however, admissible if they are unnecessary. *Cirello v. Express Co.,* 88 N. Y. Supp., 932; *Selleck v. Janesville,* 104 Wis., 570. Nor if they are not practicaly instructive. *Harris v. Quincy,* 171 Mass., 472; *State v. Miller,* 43 Ore., 325. Photographic copies of an instrument are not admissible when the original can be readily exhibited to the jury, except to identify a writing, or to detect a forgery. *Baxter v. Ry. Co.,* 104 Wis., 307. Where the photograph is offered to show distances, relative sizes, or the location of objects, its accuracy must be very convincingly proved. *Cunningham v. R. R. Co., 72* Conn., 244. X-Ray photographs are admissible when shown to have been properly taken. *De Forge v. R. R. Co.,* 178 Mass., 59; *Geneva v. Burnett,* 65 Neb., 464.

FRAUDS, STATUTE OF—SALE OF STANDING TIMBER—"CONTRACT FOR THE SALE OF REAL ESTATE."—ADAMS V. HUGHES, 140 S. W., 1163 (TEX.)—*Held,* that a contract of sale of timber allowing the purchaser fifteen years to